



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,623	01/16/2004	Daniel John Gardner	1024.7	1225

53953 7590 11/27/2007
DAVIS LAW GROUP, P.C.
6836 BEE CAVES ROAD
SUITE 220
AUSTIN, TX 78746

EXAMINER

BELL, CORY C

ART UNIT	PAPER NUMBER
----------	--------------

2164

MAIL DATE	DELIVERY MODE
-----------	---------------

11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,623

Applicant(s)

GARDNER ET AL.

Examiner

Cory C. Bell

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-10, 12-21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-7, 9-10, 12-21 and 22 have been examined.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows: The later-filed application must be filed by an inventor or inventors named in the prior-filed application for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e). This requirement is not met for provisional application 60/440,728 for which there are no inventors in common with the instant application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,742,870 (Masinter).

Art Unit: 2164

4.1. *As per Claims 1 and 14,*

(Currently amended) A method of storing information related to a file,

comprising:

obtaining content and metadata of the file, wherein the file was stored in a first environment;

(Masinter figure 5 first environment is the file system, a file implicitly contains content and metadata, col 4 line 7-10 teach files having attributes)

in a second environment, storing the content and the metadata, wherein the content is associated with the metadata, and wherein the second environment is different from the first environment;(Masinter figure 5 the backup and archive systems are second environments, figure 6 shows copying the file to the backup)

obtaining a location where the file was stored in the first environment; and

in the second environment, storing the location, wherein the location is associated with at least one of: the content; and the metadata. (Masinter Col 5 lines 51-55)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6-7, 9-10, 12-13, 15-17, 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,742,870 (Masinter) in view of US 6928526(Zhu).

4.2. *As per claim 2,*

4.2.1. Masinter teaches the claims upon which claim 2 is dependant and a metadata hash

table in figures 1 and 2, but fails to disclose having a content hash table. Zhu

teaches the following:

4.2.1.1.Col 3 lines 25-35, teaches using a hash of the content to create a segment ID which is stored with the content, thus making the table a hash table using the broadest reasonable definition,

4.2.1.2.Col 4 lines 25-26 teaches meta data being stored in a metadata hash table.

4.2.2. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the features of Zhu in Masinter to reduce latency and eliminate unnecessary data replication. Zhu Col 1, lines 60-67.

4.3. *As per Claim 3 Zhu teaches,*

generating a digital signature from the content; (Col 3 lines 25-31)

generating a digital signature from the metadata; (Col 5 lines 23-25)

storing the content in an entry in the content hash table

wherein the content's digital signature is an index into the

content hash table(Figure 3 Segment ID is an index)

storing the metadata in an entry in the metadata hash

table wherein the metadata's digital signature is an index

into the metadata hash table.(Col 5 lines 23-28)

4.4. *As per Claim 4 Zhu teaches,* See Claim 3 and the corresponding sections referenced.

4.5. *As per Claims 6 and 7 Zhu teaches,* Both the disclosed tables(see claim 2 rejection)

include the segment ID (See figure 3 and Col 5 lines 21-23)which using the broadest reasonable interpretation in a link between the two tables.

4.6. *As per Claim 9 Masinter teaches,*

Col 5 lines 51-55 teaches the location data stored in a location hash table.

Art Unit: 2164

4.7. As per Claim 10,

See claims 1, 2, and 9 rejections, however Masinter fails to teach the storage location of the hash tables, however storing the hash tables in the backup environment is taught by Zhu, as shown in the previous mappings. Also note that mere rearrangement of parts is obvious to one of ordinary skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). As such this storage of the hash tables on the backup server would have been obvious to one of ordinary skill in the art.

4.8. As per Claim 12,

The content table contains the segment id, which is a link for a location associated with the content. See figure 3.

4.9. As per Claim 13,

There is inherently a link between the metadata and a location associated with the metadata as the location hash table is part of the metadata hash table.

4.10. As per Claim 15,

See Claim 2 rejection.

4.11. As per Claim 16,

See Claim 3 rejection.

Art Unit: 2164

4.12. *As per Claim 17,*

See Claim 4 rejection.

4.13. *As per Claim 19,*

See Claim 6 rejection.

4.14. *As per Claim 20,*

See Claim 7 rejection.

4.15. *As per Claim 22,*

See Claim 9 rejection.

5. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,742,870 (Masinter) in view of US 6928526(Zhu) in light of Official Notice.

5.1. *As per Claims 5 and 18,*

Zhu teaches using a hashing algorithm as discussed above, namely MD5; however, Zhu fails to expressly disclose using SHA1. The examiner takes official notice that SHA1 was well known in the art as it is a standard. Thus, it would have been obvious to one of ordinary skill in the art to use SHA1 as it is an industry standard and would be well known and easy to implement.

Response to Arguments.

Any rejection not repeated has been withdrawn.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2164

As applicant failed to traverse the official notice it is now taken to be applicant admitted prior art. M.P.E.P 2144.03 states "If applicant does not traverse the examiner's assertion of official notice or applicant's traversal is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice...."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cory C. Bell whose telephone number is (571) 272 2736. The examiner can normally be reached on m-f 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272 4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/759,623

Page 8

Art Unit: 2164



SAM RIMELL
PRIMARY EXAMINER